

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

STEPHEN JOHN CASEY, SR.,

Petitioner,

v.

STEVEN O'BRIEN,

Respondent.

Civil Action No. 04-11940-PBS

RESPONDENTS' RULE 5 APPENDIX ACCOMPANYING HIS ANSWER

Pursuant to Rule 5 of the Rules Governing Section 2254 Cases ("Rule 5"), Respondent Steven O'Brien (the "Respondent") hereby submits the following materials.

Transcripts

1. Attached hereto as Exhibits are the following transcripts:

Exhibit A. Transcript of Probable Cause Hearing in connection with

Commonwealth v. Steven Casey, Case No. 9873-CR-0421 in the
New Bedford, Massachusetts, Superior Court;

Exhibit B. Transcript of December 6, 2002 Hearing Before the Honorable
Richard J. Chin in the Brockton, Massachusetts, Superior Court in
connection with Commonwealth v. Steven Casey, Case No. 9873-
CR-0421 in the New Bedford, Massachusetts, Superior Court; and

Exhibit C. Transcript of April 5, 2005 Oral Argument Before the
Massachusetts Supreme Judicial Court in connection with
Commonwealth v. Steven Casey (No. 1), Case No. SJC-09187, and
Commonwealth v. Steven Casey (No. 2), Case No. SJC-09212.

2. The Respondent has also obtained all four volumes of transcripts from the
Petitioner's October 1999 trial and sentencing in the Bristol County Superior
Court ("Tr. Bristol Trial"). Given that such transcripts were impounded in the
state court system, the Respondent has refrained from filing them herewith and
has instead moved this Court to likewise impound them. The Respondent will
promptly file such transcripts upon the disposition of his Motion for
Impoundment of Transcripts.
3. Additionally, the Respondent is seeking to obtain a transcript of the May 23, 2003
hearing in connection with Commonwealth v. Steven Casey, Case No. 9873-CR-
0421 in the New Bedford, Massachusetts, Superior Court, and Commonwealth v.
Steven J. Casey, Case No. 1998-CR-01379 in the Brockton, Massachusetts,
Superior Court. The Respondent expects to receive such a transcript by April 18,
2005. As with the trial transcripts referenced above, this transcript was
impounded in the state court system, and the Respondent has moved this Court to
impound it. Thus, the Respondent will promptly file such transcripts upon their
receipt and the disposition of his Motion for Impoundment of Transcripts.
4. The Respondent is not aware of any further transcripts prepared in connection
with Commonwealth v. Steven Casey, Case No. 9873-CR-0421 in the New
Bedford, Massachusetts, Superior Court, or the appeal from rulings in that case.

5. The Respondent is not aware of any proceedings that have been recorded but not transcribed.

Appellate Briefs and Opinions

1. The following appellate opinion is attached hereto:
Exhibit D. Commonwealth v. Casey, 442 Mass. 1, 809 N.E.2d 980 (2004).
2. The following appellate briefs were previously filed as Exhibits to the Respondent's Appendix Accompanying his Motion to Dismiss (the "Initial Appendix"):
 - a. Brief of Appellee/Cross-Appellant Steven Casey to the Massachusetts Appeals Court and Supreme Judicial Court, as Exhibit E to the Initial Appendix ("Pet'r's Br. to Appeals Court/SJC")¹;
 - b. Brief and Record Appendix of Appellant/Cross-Appellee the Commonwealth of Massachusetts to the Massachusetts Appeals Court and Supreme Judicial Court, as Exhibit F to the Initial Appendix ("Commonwealth's Br. to Appeals Court/SJC"); and
 - c. Reply Brief of Appellee/Cross-Appellant Steven Casey to the Massachusetts Appeals Court and Supreme Judicial Court, as Exhibit G to the Initial Appendix ("Pet'r's Reply Br. to Appeals Court/SJC").

¹ The briefs filed by the parties in the Appeals Court were transferred to the Supreme Judicial Court when the latter Court took the case on its own motion.

Respectfully submitted,

THOMAS F. REILLY
ATTORNEY GENERAL

/s/ Randall E. Ravitz
Randall E. Ravitz (BBO # 643381)
Assistant Attorney General
Criminal Bureau
One Ashburton Place
Boston, Massachusetts 02108
(617) 727-2200, ext. 2852

Dated: April 11, 2005

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served on April 11, 2005, by first class mail, postage prepaid, upon:

Stephen John Casey, Sr.
W-67232
North Central Correctional Institute
500 Colony Road
P.O. Box 466
Gardner, MA 01440

pro se

/s/ Randall E. Ravitz
Randall E. Ravitz